

3. Defendants pointed out in their Response, Doc. 49, that “Plaintiff fails to make any substantive argument for sanctions or even articulate the provision of the law entitling her to sanctions.” (p. 15.)

4. Plaintiff now makes the argument for the first time in her Reply that her requested sanctions are warranted because Defendants “failed to file a motion for a protective order to address their concerns prior [sic] depositions, as required for the 30(b)(6) deposition of Petty, has resulted in discovery delays, unnecessary arguments and disruptions in depositions, prevented Plaintiff’s counsel from conducting discovery in the best manner for their client, caused increased deposition expenses as well as increased attorneys’ fees for having to file this motion.” (Doc. 50, pp. 6-7.)

5. “Generally, a party cannot introduce new evidence or new arguments in a reply brief.” *Roche Diagnostics Corp. v. Priority Healthcare Corp.*, 2019 WL 4686353, at *1 (N.D. Ala. Feb. 28, 2019) (internal citations omitted). “To resolve new evidence or arguments presented in a reply brief, the court can either strike the new material or afford the non-movant an opportunity to respond.” *Id.*

6. Because Plaintiff has made this argument for the first time in her Reply brief, Defendants request an opportunity to address Plaintiff’s new argument.

7. Leave will not prejudice Plaintiff nor cause unnecessary delay in this matter.

8. Defendants contacted Plaintiff’s counsel yesterday to determine if they

oppose Defendants' motion. Defendants did not receive a response.

For good cause shown, Defendants ask the Court to grant this Motion, allow a surreply on Plaintiff's Motion to Compel (Doc. 48), not to exceed three pages, and set a filing deadline of five (5) days from the Court's order. Defendants request any additional relief the Court deems warranted under the circumstances.

Respectfully submitted, this the 6th day of September, 2023.

/s/ Rachel V. Barlotta
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CERTIFICATE OF SERVICE

I hereby certify that I have served a true and accurate copy of the foregoing by filing the same via the court filing system and/or via electronic or U.S. Mail, first-class postage pre-paid, on all counsel of record on September 6, 2023.

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